

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TYLER A. KUHNKE,

Petitioner,

v.

Case No. 20-C-1398

UNITED STATES OF AMERICA,

Respondent.

ORDER

This matter comes before the court on Petitioner Tyler Kuhnke’s request to dismiss this case. On September 8, 2020, Petitioner filed a motion for writ of habeas corpus, which the court construed as a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On October 9, 2020, Petitioner indicated that he had intended to submit a § 2241 petition, rather than a motion pursuant to § 2255, and requested that the court dismiss the action so that he may file the petition in the proper forum. The court notes that, while “[f]ederal prisoners who seek to collectively attack their conviction or sentence must ordinarily bring an action under § 2255,” *Camacho v. English*, 872 F.3d 811 (7th Cir. 2017), the court has no authority to order Petitioner to bring a motion under § 2255 when he has advised the court that he seeks to withdraw his motion and file a petition under § 2241. The law is clear that § 2241 petitions must be litigated in the district where the petitioner is in custody. *See Wyatt v. United States*, 574 F.3d 455, 459–60 (7th Cir. 2009); *see also Kholavskiy v. Achim*, 443 F.3d 946, 951 (7th Cir. 2006) (“We [have] interpreted 28 U.S.C. § 2241, which gives district courts the power to grant writs of habeas corpus ‘within their jurisdictions,’ to mean that the only proper venue . . . is the federal district in which

the petitioner is detained.”). This district is not the proper venue to litigate a § 2241 petition, as Petitioner is confined in the Central District of Illinois. Accordingly, Petitioner’s request for the dismissal of this action (Dkt. No. 5) is **GRANTED** and his motion to vacate, set aside, or correct his sentence is **DENIED** without prejudice to any petition he may file in a proper court pursuant to 28 U.S.C. § 2241. This action is dismissed.

SO ORDERED at Green Bay, Wisconsin this 21st day of October, 2020.

s/ William C. Griesbach
William C. Griesbach
United States District Judge